

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JAMES A. EVANS,

Plaintiff,

vs.

ANTHONY WILLS,

Defendant.

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Case No. 3:19-cv-1290-DWD

MEMORANDUM & ORDER

DUGAN, District Judge:

Petitioner James A. Evans filed a habeas corpus petition pursuant to 28 U.S.C. § 2254 challenging his state court conviction. (Doc. 1) This Court dismissed Evans' petition for failure to exhaust his state court remedies (Doc. 52) and his motion to alter or amend the judgment. (Doc. 62) He has appealed to the Seventh Circuit Court of Appeals. (Doc. 56) Now before the court is Evans' motion for leave to appeal *in forma pauperis*. (Doc. 64)

A federal court may permit a party to proceed on appeal without full pre-payment of fees provided the party is indigent and the appeal is taken in good faith. 28 U.S.C. § 1915(a)(1) & (3); FED. R. APP. P. 24(a)(3)(A). An appeal is taken in "good faith" if it seeks review of any issue that is not clearly frivolous, meaning that a reasonable person could suppose it to have at least some legal merit. *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000).

Evans states that the basis of his appeal is "Inordinate Unjustifiable

Delay/Miscarriage of Justice.” (Doc. 64 at 5) Throughout the course of his petition, Evans has argued again and again that he failed to exhaust his state court remedies due to inordinate delays in state court that were not justifiable. (See Docs. 1 at 7-17; 11 at 52-62; 22 at 57-67; 48; 51; 54) The stated basis for appeal does not indicate that Evans means to do anything more than rehash the same arguments with the Seventh Circuit. Because this Court has twice considered and rejected these arguments (Docs. 52 & 62), it finds that the appeal is frivolous and not taken in good faith. See *Moose v. Krueger*, No. 1:16-cv-1403-JBM, 2016 U.S. Dist. LEXIS 176232, at *7 (C.D. Ill. Dec. 20, 2016) (finding appeal not taken in good faith because petitioner sought to raise the same meritless argument that the court had already rejected four times).

For these reasons, it is ORDERED that Evans’ motion for leave to appeal *in forma pauperis* (Doc. 64) is DENIED. The Clerk of Court is DIRECTED to forward a copy of this Order to the Seventh Circuit Court of Appeals.

SO ORDERED.

Dated: June 24, 2021

The image shows a handwritten signature, "David W. Dugan", in black ink. The signature is written over a circular official seal. The seal features an eagle with spread wings, a shield on its chest, and a banner in its beak. The text "UNITED STATES DISTRICT COURT" is arched across the top, and "SOUTHERN DISTRICT OF ILLINOIS" is arched across the bottom.

DAVID W. DUGAN
United States District Judge